

PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

| |
|--|
| To: SAMIR A. BHAVSAR BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980 |
|--|

PCT

NOTIFICATION OF TRANSMITTAL OF
 THE INTERNATIONAL SEARCH REPORT AND
 THE WRITTEN OPINION OF THE INTERNATIONAL
 SEARCHING AUTHORITY, OR THE DECLARATION

(PCT Rule 44.1)

| | |
|--|---|
| Applicant's or agent's file reference 075234.0120 | Date of mailing <i>(day/month/year)</i> 21 JUL 2008 |
| International application No. PCT/US04/09796 | FOR FURTHER ACTION See paragraphs 1 and 4 below International filing date <i>(day/month/year)</i> 31 March 2004 (31.03.2004) |
| Applicant CANTOR INDEX, LLC | |

1. ☒ The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and are transmitted herewith.

Filing of amendments and statement under Article 19:

The applicant is entitled, if he so wishes, to amend the claims of the international application (see Rule 46):

When? The time limit for filing such amendments is normally two months from the date of transmittal of the international search report.

Where? Directly to the International Bureau of WIPO, 34 chemin des Colombettes
 1211 Geneva 20, Switzerland, Facsimile No.: (41-22) 338.82.70.

For more detailed instructions, see the notes on the accompanying sheet.

2. ☐ The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.

3. ☐ With regard to the protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:

- ☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.
☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. **Reminders**

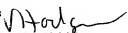
Shortly after the expiration of **18 months** from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90*bis*.1 and 90*bis*.3, respectively, before the completion of the technical preparations for international publication.

The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. These comments would also be made available to the public but not before the expiration of 30 months from the priority date.

Within **19 months** from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until 30 months from the priority date (in some Offices even later); otherwise, the applicant must, within **20 months** from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

In respect of other designated Offices, the time limit of **30 months** (or later) will apply even if no demand is filed within 19 months.

See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the *PCT Applicant's Guide*, Volume II, National Chapters and the WIPO Internet site.

| | |
|---|---|
| Name and mailing address of the ISA/US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (571) 273-3201 | Authorized officer John Weiss  Telephone No. 571-272-3600 |
|---|---|

Form PCT/ISA/220 (January 2004)

(See notes on accompanying sheet)

PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

| | | |
|--|---|---|
| Applicant's or agent's file reference 075234.0120 | FOR FURTHER ACTION see Form PCT/ISA/220 as well as, where applicable, item 5 below | |
| International application No. PCT/US04/09796 | International filing date (day/month/year) 31 March 2004 (31.03.2004) | (Earliest) Priority Date (day/month/year) 31 March 2003 (31.03.2003) |
| Applicant CANTOR INDEX, LLC | | |

This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This international search report consists of a total of 2 sheets.

☐ It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the Report

a. With regard to the language, the international search was carried out on the basis of:

- ☒ the international application in the language in which it was filed.
☐ a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b))

b. ☐ This international search report has been established taking into account the rectification of an obvious mistake authorized by or notified to this Authority under Rule 91 Rule 43.6 bis(a)

c. ☐ With regard to any nucleotide and/or amino acid sequence disclosed in the international application, see Box No. I.

2. ☐ Certain claims were found unsearchable (See Box No. II)

3. ☐ Unity of invention is lacking (See Box No. III)

4. With regard to the title,

- ☒ the text is approved as submitted by the applicant.
☐ the text has been established by this Authority to read as follows:

5. With regard to the abstract,

- ☒ the text is approved as submitted by the applicant.
☐ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. With regard to the drawings,

a. the figure of the drawings to be published with the abstract is Figure No. I

- ☒ as suggested by the applicant.
☐ as selected by this Authority, because the applicant failed to suggest a figure.
☐ as selected by this Authority, because this figure better characterizes the invention.

b. ☐ none of the figures is to be published with the abstract.

INTERNATIONAL SEARCH REPORT

International application No.

PCT/US04/09796

A. CLASSIFICATION OF SUBJECT MATTER

IPC: G06Q 99/00 (2006.01)

USPC: 705/1

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

U.S. : 705/1

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched Internet, proquest database

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

C. DOCUMENTS CONSIDERED TO BE RELEVANT

| Category * | Citation of document, with indication, where appropriate, of the relevant passages | Relevant to claim No. |
|------------|---|-----------------------|
| Y | Wikipedia reference to "Parimutuel betting", invented in 1865, see entire document, 7 pages | 1-23 |

☐ Further documents are listed in the continuation of Box C.☐ See patent family annex.

* Special categories of cited documents:

"A" document defining the general state of the art which is not considered to be of particular relevance

"E" earlier application or patent published on or after the international filing date

"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T"

later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X"

document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y"

document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art

"Z"

document member of the same patent family

Date of the actual completion of the international search

18 February 2008 (18.02.2008)


Date of mailing of the international search report

21 JUL 2008

Name and mailing address of the ISA/US

Mail Stop PCT, Attn: ISA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Authorized officer

John Weiss 
Telephone No. 571-272-3600

Facsimile No. (571) 273-3201

Form PCT/ISA/210 (second sheet) (April 2007)

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
SAMIR A. BHAVSAR
BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

| | | |
|---|--|--|
| Applicant's or agent's file reference 075234.0120 | | Date of mailing (day/month/year) 21 JUL 2008 |
| FOR FURTHER ACTION See paragraph 2 below | | |
| International application No. PCT/US04/09796 | International filing date (day/month/year) 31 March 2004 (31.03.2004) | Priority date (day/month/year) 31 March 2003 (31.03.2003) |
| International Patent Classification (IPC) or both national classification and IPC IPC: G06Q 99/00 (2006.01) USPC: 705/1 | | |
| Applicant CANTOR INDEX, LLC | | |

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

| | | |
|--|--|--|
| Name and mailing address of the ISA/ US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (571) 273-3201 | Date of completion of this opinion 18 February 2008 (18.02.2008) | Authorized officer John Weiss Telephone No. 571-272-3600 |
|--|--|--|

Form PCT/ISA/237 (cover sheet) (April 2007)

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US04/09796

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of:

- ☒ the international application in the language in which it was filed
☐ a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. ☐ This opinion has been established taking into account the **rectification of an obvious mistake** authorized by or notified to this Authority under Rule 91 (Rule 43bis.1(a))

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, this opinion has been established on the basis of:

a. type of material

- ☐ a sequence listing
☐ table(s) related to the sequence listing

b. format of material

- ☐ on paper
☐ in electronic form

c. time of filing/furnishing

- ☐ contained in the international application as filed.
☐ filed together with the international application in electronic form.
☐ furnished subsequently to this Authority for the purposes of search.

4. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

5. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US04/09796

Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

| | | |
|-------------------------------|-------------|-----|
| Novelty (N) | Claims 1-23 | YES |
| | Claims NONE | NO |
| Inventive step (IS) | Claims NONE | YES |
| | Claims 1-23 | NO |
| Industrial applicability (IA) | Claims 1-23 | YES |
| | Claims NONE | NO |

2. Citations and explanations:

Claims 1-23 lack an inventive step under PCT Article 33(3) as being obvious over what is well known in the betting art as "Parimutuel betting" as is disclosed by Wikipedia and was invented in 1865.

For claims 1,5,8,11-14, in Parimutuel betting all bets of a particular type are placed together in a pool and payoff odds are calculated by sharing the pool among all bets. The receipt of a 1st bet is inherent to betting. The claimed first quote is the amount of the bet. For this kind of betting the results of events are received and the amount of a payout is determined after the bets are made. Not disclosed is that the first quote related to a total number of points that a participant may earn in a plurality of events. It is well known in the art of betting that one can place a bet on the total number of points that a NASCAR driver may earn in a championship event (such as the championship event formerly known as the Winston Cup series). Las Vegas has for a long time been taking bets on how many points a driver will earn for the season and who will win the championship. In a general sense, one can bet on just about anything. It is also known that one can be on how many points a football team will score in each of the 4 quarters (events) of a football game, as well as the total number of points for the game. Betting on how many points a participant will earn is nothing new and is what happens with the NASCAR championship series. It would have been obvious to one of ordinary skill in the art to use a parimutuel betting system for the betting of the number of points a NASCAR driver will earn for the season. The number of points is the claimed total number of units that the participant can earn. NASCAR has a plurality of events, which are the various races throughout the season.

For claims 2,6,7 the providing of an upper index and a lower index is what is known as providing an over or under for points. One can bet that the total points will be over the over/under number, or can bet that the points will be under the over/under number. The over is a number and the under is a number. It would have been obvious to use the over/under scheme of betting with Parimutuel betting as this is a very well known form of betting.

For claim 3,4, while not disclosed by the reference, to have one bet on how much money one may earn over the course of a season, or to be on horse jockeys, is obvious to one of ordinary skill in the art. As stated previously, one can place a bet on just about anything. To claim a specific type or kind of event that the bet is placed on is something that is obvious and that involves no more than ordinary skill in the art.

For claims 9,10, this claim is reciting the act of taking a bet after the Winston Cup series has started, something that is also obvious to one of ordinary skill in the art. One can place a bet at any time as long as the bet taker is willing to take the bet.

For claims 15-23, to simply use computers to automate the process of taking bets and processing the payouts is obvious to one of ordinary skill in the art. This is just using modern computers to assist in what would otherwise be a manual process. Automation of a previously recognized as manual process is obvious to one of ordinary skill in the art.

NOTES TO FORM PCT/ISA/220

These Notes are intended to give the basic instructions concerning the filing of amendments under Article 19. The Notes are based on the requirements of the Patent Cooperation Treaty, the Regulations and the Administrative Instructions under that Treaty. In case of discrepancy between these Notes and those requirements, the latter are applicable. For more detailed information, see also the *PCT Applicant's Guide*, a publication of WIPO.

In these Notes, "Article," "Rule" and "Section" refer to the provisions of the PCT, the PCT Regulations and the PCT Administrative Instructions, respectively.

INSTRUCTIONS CONCERNING AMENDMENTS UNDER ARTICLE 19

The applicant has, after having received the international search report and the written opinion of the International Searching Authority, one opportunity to amend the claims of the international application. It should however be emphasized that, since all parts of the international application (claims, description and drawings) may be amended during the international preliminary examination procedure, there is usually no need to file amendments of provisional protection or has another except where, e.g. the applicant wants the latter to be published for the purposes of provisional protection or has another reason for amending the claims before international publication. Furthermore, it should be emphasized that provisional protection is available in some States only (see *PCT Applicant's Guide*, Volume I/A, Annexes B1 and B2).

The attention of the applicant is drawn to the fact that amendments to the claims under Article 19 are not allowed where the International Searching Authority has declared, under Article 17(2), that no international search report would be established (see *PCT Applicant's Guide*, Volume I/A, paragraph 296).

What parts of the international application may be amended ?

Under Article 19, only the claims may be amended.

During the international phase, the claims may also be amended (or further amended) under Article 34 before the International Preliminary Examining Authority. The description and drawings may only be amended under Article 34 before the International Preliminary Examining Authority.

Upon entry into the national phase, all parts of the international application may be amended under Article 28 or, where applicable, Article 41.

When ? Within 2 months from the date of transmittal of the international search report or 16 months from the priority date, whichever time limit expires later. It should be noted, however, that the amendments will be considered as having been received on time if they are received by the International Bureau after the expiration of the applicable time limit but before the completion of the technical preparations for international publication (Rule 46.1).

Where not to file the amendments ?

The amendments may only be filed with the International Bureau and not with the receiving Office or the International Searching Authority (Rule 46.2).

Where a demand for international preliminary examination has been/is filed, see below.

How ? Either by cancelling one or more entire claims, by adding one or more new claims or by amending the text of one or more of the claims as filed.

A replacement sheet must be submitted for each sheet of the claims which, on account of an amendment or amendments, differs from the sheet originally filed.

All the claims appearing on a replacement sheet must be numbered in Arabic numerals. Where a claim is cancelled, no renumbering of the other claims is required. In all cases where claims are renumbered, they must be renumbered consecutively (Section 205(b)).

The amendments must be made in the language in which the international application is to be published.

What documents must/may accompany the amendments ?

Letter (Section 205(b)):

The amendments must be submitted with a letter.

The letter will not be published with the international application and the amended claims. It should not be confused with the "Statement under Article 19(1)" (see below, under "Statement under Article 19(1)").

The letter must be in English or French, at the choice of the applicant. However, if the language of the international application is English, the letter must be in English; if the language of the international application is French, the letter must be in French.